



**DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT**

**24 CFR Part 570**

**[Docket No. FR-5767-N-02]  
RIN 2506-AC35**

**Section 108 Loan Guarantee Program:  
Announcement of Proposed Fee to Cover Credit Subsidy Costs  
and Solicitation of Comment**

**AGENCY:** Office of the Assistant Secretary for Community Planning and Development, HUD.

**ACTION:** Notice.

**SUMMARY:** This notice announces and solicits public comment on the fee that HUD proposes to collect from borrowers of loans guaranteed under the HUD's Section 108 Loan Guarantee Program (Section 108 Program) for the purpose of covering the credit subsidy costs of operating the program. Elsewhere in today's Federal Register, HUD is publishing a proposed rule that would amend its regulations for the Section 108 Program to permit HUD to collect a fee for the Section 108 Program.

**DATES:** Comment Due Date: **[INSERT DATE THAT IS 30 DAYS AFTER PUBLICATION IN THE FEDERAL REGISTER]**.

**ADDRESSES:** Interested persons are invited to submit comments regarding this proposed rule to the Regulations Division, Office of General Counsel, Department of Housing and Urban Development, 451 7th Street, SW, Room 10276, Washington, DC 20410-0500.

Communications must refer to the above docket number and title. There are two methods for submitting public comments. All submissions must refer to the above docket number and title.

**1. Submission of Comments by Mail.** Comments may be submitted by mail to the Regulations Division, Office of General Counsel, Department of Housing and Urban Development, 451 7th Street, SW, Room 10276, Washington, DC 20410-0500.

**2. Electronic Submission of Comments.** Interested persons may submit comments electronically through the Federal eRulemaking Portal at [www.regulations.gov](http://www.regulations.gov). HUD strongly encourages commenters to submit comments electronically. Electronic submission of comments allows the commenter maximum time to prepare and submit a comment, ensures timely receipt by HUD, and enables HUD to make them immediately available to the public. Comments submitted electronically through the [www.regulations.gov](http://www.regulations.gov) website can be viewed by other commenters and interested members of the public. Commenters should follow the instructions provided on that site to submit comments electronically.

**Note:** To receive consideration as public comments, comments must be submitted through one of the two methods specified above. Again, all submissions must refer to the docket number and title of the notice.

**No Facsimile Comments.** Facsimile (FAX) comments are not acceptable.

**Public Inspection of Public Comments.** All properly submitted comments and communications submitted to HUD will be available for public inspection and copying between 8 a.m. and 5 p.m., weekdays, at the above address. Due to security measures at the HUD Headquarters building, an appointment to review the public comments must be scheduled in advance by calling the Regulations Division at 202-708-3055 (this is not a toll-free number). Individuals with speech or hearing impairments may access this number via TTY by calling the Federal Relay Service at 800-877-8339. Copies of all comments submitted are available for inspection and downloading at [www.regulations.gov](http://www.regulations.gov).

**FOR FURTHER INFORMATION CONTACT:** Paul Webster, Director, Financial Management Division, Office of Block Grant Assistance, Office of Community Planning and Development, Department of Housing and Urban Development, 451 7th Street, SW, Room 7180, Washington, DC 20410; telephone number 202-708-1871 (this is not a toll-free number). Individuals with speech or hearing impairments may access this number through TTY by calling the toll-free Federal Relay Service at 800-877-8339. FAX inquiries (but not comments) may be sent to Mr. Webster at 202-708-1798 (this is not a toll-free number).

**SUPPLEMENTARY INFORMATION:**

**I. Background**

HUD's proposed rule, published elsewhere in today's Federal Register, describes the current Congressional funding status of the Section 108 Program. HUD's Fiscal Year (FY) 2014 Appropriations Act<sup>1</sup> authorized HUD in FY 2014 to impose a fee to eliminate the need for credit subsidy appropriations. As discussed in more detail in the preamble to the proposed rule, imposition of a fee, as statutorily authorized, will permit the Section 108 guaranteed loan financing to remain available.

**II. Proposed 2015 Fee: 2.42 Percent of the Principal Obligation of the Loan**

As described in the proposed rule, when determining the appropriate level of fee to charge, HUD took into consideration the amount required to fully offset the credit subsidy cost to the Federal Government associated with making a loan guarantee. Credit subsidy cost calculations incorporate assumptions based on: (i) data on default frequency for municipal debt where such debt is comparable to loans in the Section 108 loan portfolio; (ii) data on recovery rates on collateral security for comparable municipal debt; (iii) the expected composition of the

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<sup>1</sup> The 2014 HUD Appropriations Act is Title II of Division L of Public Law 113-73, approved January 17, 2014.

Section 108 portfolio by end users of the guaranteed loan funds (e.g., third party borrowers and public entities);; and (iv) other factors that HUD determines may be relevant to this calculation.

Taking these factors into consideration, HUD determined that the initial fee to be imposed on the program is 2.42 percent, which percentage will be applied to guaranteed loan disbursements as they occur in fiscal year 2015. The fee will be effective after available credit subsidy appropriations are depleted, which HUD anticipates will occur around May 2015. Note that future notices may provide for a combination of up-front and periodic fees.

The expected cost of a Section 108 loan guarantee is difficult to estimate accurately using historical program data, because there have been no defaults in the history of the program. HUD has never had to invoke its full faith and credit guarantee, nor has it paid out on any guarantee from the credit subsidy reserved each year for future losses.<sup>2</sup> This is due to a variety of factors, including the availability of CDBG funds as security. Borrowers may plan to make payments on Section 108 loans from CDBG grant funds. However, when a borrower plans to make Section 108 loan payments from other anticipated sources, it has been able to repay the Section 108 loan using CDBG funds when there are shortfalls in anticipated repayment sources, as authorized by Section 108 of the Housing and Community Development Act of 1974, as amended (42 U.S.C. 5308).

The proposed fee of 2.42 percent offsets the expected cost to the government due to default, financing costs, and other relevant factors. To arrive at this measure, HUD analyzed data on comparable municipal debt over an extended 16- to 23-year period. The estimated rate is based on the default and recovery rates for general purpose municipal debt and industrial development bonds. The cumulative default rates on industrial development bonds were higher

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<sup>2</sup> U.S. Department of Housing and Urban Development, Study of HUD's Section 108 Loan Guarantee Program, (prepared by Econometrica, Inc. and The Urban Institute), September 2012

than the default rates on general purpose municipal debt during the period from which the data were taken. These two subsectors of municipal debt were chosen because their purposes and loan terms most closely resemble those of Section 108 loans. In this regard, Section 108 loans can be broken down into two categories: (i) loans that finance public infrastructure and activities to support subsidized housing (other than financing new construction) and (ii) development projects (e.g., retail, commercial, industrial). The 2.42 percent fee was derived by weighting the default and recovery data for general purpose municipal debt and the data for industrial development bonds according to the expected composition of the Section 108 portfolio by corresponding project type. Based on dollar amount of Section 108 commitments awarded during the period 2005 – 2013, HUD expects that 27 percent of the Section 108 portfolio will be similar to general purpose municipal debt and 73 percent of the portfolio will be similar to industrial development bonds. In determining the appropriate level of fee, HUD will consider the amount required to fully offset the cost to the Federal Government associated with making a loan guarantee. Credit subsidy cost calculations incorporate assumptions based on: (i) data on default frequency for municipal debt where such debt is comparable to loans in the Section 108 portfolio; (ii) data on recovery rates on collateral security for comparable municipal debt; (iii) the expected composition of the Section 108 cohort by end users of the guaranteed loan funds (e.g., third party borrowers and public entities); and (iv) other relevant information (e.g., statutory changes) that would affect the applicability of the default and recovery data on comparable municipal debt.

### **III. Solicitation of Comment**

HUD solicits comment on the initial fee to be imposed on the Section 108 Program.

**Date:** December 17, 2014

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Clifford Taffet, General Deputy Assistant Secretary  
for Community Planning and Development

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